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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/539,170	03/29/2000	Nosakhare D. Omoigui	MS1-339US	7563

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EXAMINER	
KOENIG, ANDREW Y	

ART UNIT	PAPER NUMBER
2611	

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/539,170	OMOIGUI, NOSAKHARE D.	
	Examiner	Art Unit	
	Andrew Y. Koenig	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 June 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-13* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-13* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding independent claims 1, 10, and 13, each claim recites "without a user-detectable break," however the scope of this term is vague and indefinite in that it is unclear whether a user can detect a change of speed as a "break." Consequently, for the rest of this Office action, "without a user-detectable break" will be treated as "seamless."

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-6 and 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,606,359 to Youden et al. (Youden) in view of U.S. Patent 6,363,207 to Duruoz et al. (Duruoz).

Regarding claim 1, Youden teaches a Video-On-Demand (VOD) system where the server performs the VCR-like functions of fast-forward, fast reverse, play, and pause. The client can send requests and control the playback and how the server streams the data to the user. Accordingly, Youden teaches sending data from the server to the clients through a switch (80) to the distribution network (20), see fig. 1-3. col. 5, ll. 45-56). Youden teaches sending the stream of video at a first playback speed (col. 10, ll. 34-39) and switching the stream to a different playback speed, in this case fast-forward (FF), fast-rewind (FR), or pause, (col. 11-12, ll. 66-3, col. 14-15, ll. 39-6). In light of the applicant's specification, the applicant discloses in the background that changing speeds are not always seamless and that there may be breaks in the data where the user is presented with either a "paused" view of the streaming data or no data at all until the system is able to render the stream at the requested speed (see applicant's specification: pg. 2-3, ll. 19-2). Youden teaches after receiving a request to change speeds to find the closest position of the video and switches streams (col. 14, ll. 38-44). Youden recognizes that data should be sent to the user with a minimum delay (col. 3, ll. 10-17).

However, Youden fails to explicitly disclose switching without a user-detectable break. In analogous art, Duruoz teaches the use of trick play features (which include changing the speed of the playback) and seamlessly switching between streams of

different rates (col. 14, ll. 32-42, col. 14-15, ll. 57-16), which equates to a "without a user-detectable break" as claimed. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Youden by switching without a user-detectable break between streams as taught by Duruoz in order to provide continuous playback while reducing noise and distortion (Duruoz: col. 14-15, ll. 57-16).

Regarding claim 2, Youden teaches streaming programs, which is a composite stream including audio and video (col. 6-7, ll. 66-1).

Regarding claim 3, Youden teaches the second stream being a fast-forward stream (col. 14, ll. 39-47), which equates to a second playback speed faster than the first playback speed.

Regarding claim 4, Youden teaches receiving the user selection at the real time controller identifying a fast forward stream thereby causing the server to change streams (col. 3, ll. 42-51, col. 3-4, ll. 65-11, col. 14, ll. 39-47).

Regarding claim 5, Youden teaches a "fast prefetch on startup" to insure that each user will have enough data in their assigned FIFO memory buffers to insure uninterrupted transmission for a period of some seconds (col. 11, ll. 14-20).

Regarding claim 6, Youden teaches the "real time controller also controls ongoing interaction with a given user, such as FF and FR commands," see col. 5., ll. 63-65), which renders the streams of data. Youden further teaches that the real time controller is running a real time operating system, which inherently would process the data immediately as claimed by definition of a real time operating system.

Regarding claims 10 and 13, Youden teaches a Video-On-Demand (VOD) system where the server performs the VCR-like functions of fast-forward, fast reverse, play, and pause. Youden teaches sending the stream of video at a first playback speed (col. 10, ll. 34-39) and switching the stream to a different playback speed, in this case fast-forward (FF), fast-rewind (FR), or pause, (col. 11-12, ll. 66-3, col. 14-15, ll. 39-6). In light of the applicant's specification, the applicant discloses in the background that changing speeds are not always seamless and that there may be breaks in the data where the user is presented with either a "paused" view of the streaming data or no data at all until the system is able to render the stream at the requested speed (see applicant's specification: pg. 2-3, ll. 19-2). Youden teaches after receiving a request to change speeds to find the closest position of the video and switches streams (col. 14, ll. 38-44). Youden recognizes that data should be sent to the user with a minimum delay (col. 3, ll. 10-17).

However, Youden fails to explicitly disclose switching without a user-detectable break. In analogous art, Duruoz teaches the use of trick play features (which include changing the speed of the playback) and seamlessly switching between streams of different rates (col. 14, ll. 32-42, col. 14-15, ll. 57-16), which equates to a "without a user-detectable break" as claimed. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Youden by switching without a user-detectable break between streams as taught by Duruoz in order to provide continuous playback while reducing noise and distortion (Duruoz: col. 14-15, ll. 57-16).

Regarding claim 11, Youden teaches streaming programs, which is a composite stream including audio and video (col. 6-7, ll. 66-1).

Regarding claim 12, Youden teaches FIFO memory buffers for each user for transmission (col. 7, ll. 6-25), clearly when Youden changes streams, the client merely decodes the incoming data, which renders the first stream until the second stream is receiver. Further, Youden teaches switching to the second stream (col. 11-12, ll. 66-3, col. 14-15, ll. 39-6).

6. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,606,359 to Youden et al. (Youden) and U.S. Patent 6,363,207 to Duruoz et al. (Duruoz) in view of U.S. Patent 5,699,474 to Suzuki et al. (Suzuki).

Regarding claim 7, Youden is silent on each of the plurality of data packets includes a tag identifying whether it was transferred for a first or second playback speed. Suzuki teaches an FF_sequence (see fig. 13) flag, which is identifies the stream to be fast forward (e.g. high speed reproduction) or normal speed reproduction (col. 16,ll. 49-62). Accordingly, Suzuki teaches a tag identifying the playback speed of the signal. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Youden by using a tag to identify the reproduction speed as taught by Suzuki in order to control the decoder of the device for displaying the information to the user.

Regarding claim 8, Youden is silent on rendering based on the tags. Suzuki teaches the tag identifying high speed reproduction which renders the signal based on

the tag. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Youden by using a tag to render the reproduction speed as taught by Suzuki in order to control the decoder of the device for displaying the information to the user.

Regarding claim 9, Youden is silent on performing time-scale modification in accordance by the tags. Suzuki teaches performing the time-scale modification in accordance by the sequence header (col. 17, ll. 24-46). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Youden by performing a time-scale modification in accordance by the tags as taught by Suzuki in order to display the data to the user.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Y. Koenig whose telephone number is (571) 272-7296. The examiner can normally be reached on M-Th (7:30 - 6:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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